Single Bench 4

(1)

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W. P. (S) No. 5384 /2006

PETITIONER : Ram Khilawan Rajak
S/o Shri Budheram Rajak,
Age about 37 years,
R/o Sirgitti,Tarbahar,Near Kumar
Cycle Stand, Bilaspur (C.G.)

P.R. No. 5203/06
Presented by Sh. Lov Sharma
dated 18/9/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through :- Secretary,
Department of Water Resources
Dau Kalyan Singh Bhawan,
Raipur (C.G.)

2. Engineer-in-Chief,
Department of Water Resources
Raipur (C.G.)

3. Superintending Engineer,
Department of Water Resources
Hasdeo Kachhar,Bilaspur Division,
Distt. Bilaspur (C.G.)

4. Executive Engineer,
Vidyut/Yantriki Light Machinary
Nalkup & Gets, Division Bilaspur,
Distt. Bilaspur (C.G.)

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P.(S) No. 5384 of 2006

Petitioner : Ram Khilawan Rajak

Versus

Respondents : State of Chhattisgarh & Others

Shri S.P. Kale, counsel for the petitioner.

Shri Ajay Dwivedi, Panel Lawyer for the respondents.

ORDER

(6th October, 2006)

1. Learned counsel for the petitioner submits that the petitioner was appointed prior to 31.12.1988 and at present he is working as Labour (class-IV employee) in the respondent/department as daily wager.

2. The petitioner has filed this petition praying for a relief in terms of the judgment and order passed by the Supreme Court in the case of **Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others**[1] **and Mineral Exploration Corporation Employees' Union v. Mineral Exploration Corporation Limited & Anr.**[2]

3. The Supreme Court in the case of **Secretary, State of Karnataka and Others** (supra), in para 53 has held as under:

> "53. .....The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities

should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

4. The Supreme Court in the case of **Mineral Exploration Corporation Employees' Union** (supra) in para 17 has held as under :-

"17. It is seen from the above paragraph that this Court directed the Union of India, the State Governments and their instrumentalities to regularize as a one-time measure, the services of such irregularly appointed workman, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaking to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed."

5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and without expressing any opinion on merits of the case, the request made by learned counsel for the petitioner is just, fair and reasonable. Therefore, the

petitioner is allowed to make a detailed representation, raising all his grievances annexing a copy of the writ petition and its annexures to the concerned authority within a period of ten days from today and the concerned authority id directed to decide the representation within one month from the date of its receipt after considering the points raised by the petitioner, in an objective manner, on its own merits, in accordance with law.

6. With the directions aforesaid, the petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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[1]{(2006) 4 SCC 1}

[2]{JT 2006 (7) SC 151}

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